

**Decision PROPOSED DECISION OF ALJ WANG (Mailed 5/7/2020)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of PacifiCorp (U901E) for  
Approval of its Emergency Services  
Resiliency Programs.

Application 19-10-003

**DECISION APPROVING APPLICATION OF PACIFICORP FOR  
EMERGENCY SERVICES RESILIENCY****Summary**

This decision approves with modifications Application 19-10-003 of PacifiCorp, to repurpose unspent California Solar Initiative program funds for two new emergency services resiliency grant programs. This proceeding is closed.

**1. Background**

PacifiCorp filed Application (A.) 19-10-003, on October 1, 2019, to propose two new emergency services resiliency grant programs: 1) fund technical feasibility studies and/or fund capital costs to enable the installation of battery

storage systems at facilities offering critical services during de-energization events<sup>1</sup> or emergencies (Energy Storage Program); and 2) fund grants to

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<sup>1</sup> In Decision (D.) 19-05-042, the Commission adopted de-energization guidelines for when electric investor-owned utilities proactively cut power to lines that may fail in certain weather conditions to reduce the likelihood that their infrastructure could cause or contribute to a wildfire.

emergency responders for portable renewable generators<sup>2</sup> (Portable Generators Program). In this application, PacifiCorp requested an expedited schedule for the proceeding so that it can begin its first grant cycle before the next wildfire season.

PacifiCorp proposes to use all remaining unspent funds from its California Solar Incentive Program<sup>3</sup> for these two new programs over the course of two years. In 2018, the Commission authorized PacifiCorp to use unspent funds from its California Solar Incentive Program for transportation electrification projects, education and outreach in D.18-09-034. PacifiCorp reported that it has \$623,230 in unspent California Solar Incentive Program funds and proposes to allocate this amount to the two proposed programs.<sup>4</sup>

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<sup>2</sup> PacifiCorp proposed to award grants to emergency responders within high fire risk areas to enable the purchase of portable renewable-powered generation for customers with access and functional needs. (Application at 6.) PacifiCorp's intent is to provide funding for safe and renewable generators compatible with 120 volt outlets to operate medical equipment, charge phones, or operate a small refrigerator. The company will work with emergency responders to determine what will best meet the needs of both the employees deploying the units, as well as the requirements for the potential customers utilizing the generators. No generators will be purchased by the company but grants will be provided to emergency personnel customized to meet the needs of the community. (PacifiCorp PHC statement at 3.)

<sup>3</sup> Decision 11-03-007 authorized PacifiCorp's California Solar Incentive Program and directed that any unspent collections be rolled over until the Commission either directs use of the funds or return of the money to PacifiCorp's ratepayers.

<sup>4</sup> In its prehearing conference (PHC) statement, PacifiCorp reported: "The CSIP has concluded and the transportation electrification programs are ongoing but funds dedicated to the transportation electrification program were not included in the proposed budget of \$623,230. It is the company's expectation that all funds will be spent for the program; however, any funds remaining after conclusion of the programs will be returned to customers."

One party, Public Advocates Office, filed a timely protest on November 12, 2019. PacifiCorp filed a response to the protest on November 22, 2019, attaching supplemental information about the proposed grant programs.

The assigned Administrative Law Judge (ALJ) issued a ruling setting a PHC and requesting PHC statements on November 15, 2019. PacifiCorp and the Public Advocates Office each filed and served a PHC statement on November 27, 2019.

The California Public Utilities Commission (Commission) held a PHC on December 3, 2019 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. The assigned Commissioner issued a scoping ruling on January 13, 2020 that directed PacifiCorp to file additional information and invited party comments on specific questions. PacifiCorp filed a response to the assigned Commissioner's inquiry on January 24, 2020. Public Advocates Office and PacifiCorp each filed comments on the scoping ruling on February 12, 2020. PacifiCorp filed reply comments on February 25, 2020, and the matter was submitted on February 26, 2020 in accordance with the scoping memo.

On April 20, 2020, PacifiCorp served a motion to admit stipulations. These stipulations were not considered in this decision since the motion was served nearly two months after submission of this case. The scoping memo established an expedited schedule for this proceeding, including submission on

February 26, 2020, per the request of PacifiCorp and with the assent of Public Advocates Office.

## **2. Issues Before the Commission**

The issue before the Commission is whether the proposed programs should be approved as proposed or with modifications. Specifically, we will address the questions listed below:

- a) Are the proposed Energy Storage Program eligibility and evaluation criteria appropriate?
- b) What program participation or performance targets should PacifiCorp set for the proposed programs?
- c) What is the appropriate cap for administrative costs for the proposed programs? What types of costs should be included or excluded from the administrative costs cap?
- d) Should PacifiCorp be required to perform additional outreach to key stakeholders?
- e) How much flexibility should PacifiCorp have to adjust the design of the proposed programs?
- f) What program information should PacifiCorp be required to report to the Commission, and how often?

We note that the design of the Portable Generator Program<sup>5</sup> was effectively uncontested. Accordingly, this proposed decision focuses on the design of the Energy Storage Program and general program administration issues such as administrative costs, program targets and program reporting requirements.

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<sup>5</sup> Parties agreed that PacifiCorp should have flexibility in defining eligible technologies for the Portable Generator Program.

### 3. Energy Storage Program criteria

PacifiCorp proposes that an independent evaluator will develop and implement a set of eligibility and evaluation criteria for the proposed Energy Storage Program to allocate competitive grants for (a) feasibility assessments for energy storage projects and (b) installed energy storage projects.

In the scoping ruling, we asked parties whether the proposed Energy Storage Program eligibility and evaluation criteria are appropriate. Specifically, we asked whether the definitions of eligible critical facilities are appropriate, and whether the community benefits criteria should include benefits to the energy storage or renewable energy industries. The parties' responses showed consensus on most of these points.

In its response to the scoping ruling and subsequent comments, the parties agreed that PacifiCorp should revise the definition of eligible critical facility to use only the Commission's definition in D.19-09-027, rather than to refer to both the Commission's definition and a federal definition.<sup>6</sup> PacifiCorp also proposed to clarify that it did not intend to offer program grants to load serving entities. Further, PacifiCorp agreed to remove benefits to energy storage or renewable energy industries from its community benefits criteria.

In comments on the scoping ruling, Public Advocates Office asserted that both load serving entities and PacifiCorp affiliates should be excluded from

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<sup>6</sup> D.19-09-027 defined eligible critical facilities for the Self Generation Incentive Program (SGIP) equity resiliency budget. In D.20-01-021 at 48, the Commission adopted clarifications to this definition.

consideration for grant funding. (PacifiCorp supported this point in reply comments.) Public Advocates Office also supported removal of benefits to energy storage or renewable energy industries from the Energy Storage Program's community benefits criteria.

In addition, Public Advocates Office asserted that a qualitative measure of community benefit to tribal and disadvantaged communities should be included as a grant scoring criterion. PacifiCorp did not comment on this point in its reply comments. However, PacifiCorp asserted with respect to program targets (discussed below) that while 39% of PacifiCorp's service territory in California qualifies for low-income assistance, few of these customers belong to disadvantaged communities recognized by the Commission.

Based on this record, we conclude that PacifiCorp, in implementing this program, should (a) revise the definition of eligible critical facility to use only the Commission's definition in D. 20-01-021, (b) clarify that the load serving entities and PacifiCorp affiliates will not be eligible for grants, (c) remove benefits to energy storage or renewable energy industries from the Energy Storage Program's community benefits criteria, and (d) add to the community benefits criteria a qualitative measure of benefits to tribal<sup>7</sup>, low-income and/or disadvantaged communities<sup>8</sup>.

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<sup>7</sup> Tribal community is defined for this decision as "Indian Country" consistent with definitions in [D.19-09-027](#) at A1.

<sup>8</sup> Low income and disadvantaged communities are defined for this decision consistent with D.19-09-027, Table 1 at 9.

#### 4. Program targets

We recognize that it is difficult to set specific performance or participation targets for a program with a small budget and short duration. However, we must define program success. Accordingly, we asked the parties in the scoping ruling what program participation or performance targets we should set for each of the proposed programs.

Public Advocates Office proposed setting a performance target for the proportion of participants representing tribal and disadvantaged communities to be equal to or greater than their prevalence among PacifiCorp's California customers. However, Public Advocates Office did not provide any information or rationale to support this position.

PacifiCorp opposed setting program participation or performance targets generally, asserting that setting targets is not appropriate in light of the limited funding available for the two programs. Further, PacifiCorp pointed out that while 39% of PacifiCorp's service territory in California qualifies for low-income assistance, few of these customers belong to disadvantaged communities recognized by the Commission. PacifiCorp's service territory serves portions of Del Norte, Modoc, Siskiyou, Shasta, and Trinity Counties. Although not designated as disadvantaged communities, these counties have persons living in poverty at higher rates than the overall percentage reported for California during 2019.<sup>9</sup>

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<sup>9</sup> See United States Census Bureau Quick Facts: California, accessed from <https://www.census.gov/quickfacts/fact/table/CA,US/IPE120218>.

We decline to set a performance target for the proportion of participants representing tribal and disadvantaged communities to be equal to or greater than their prevalence among PacifiCorp's California customers. However, we encourage all efforts to target the programs to these communities in the absence of any specific target, and we will require PacifiCorp to conduct targeted outreach to low-income and tribal communities as discussed in Section 6 below.

PacifiCorp proposed, in lieu of setting program targets, to limit spending on portable renewable generating equipment to \$100,000 in the first grant cycle to leave adequate funding for the Energy Storage Program.<sup>10</sup> We decline to adopt this approach for the following reasons.

We granted PacifiCorp's request for expedited review of this application because we agreed that the proposed programs have the potential to provide resiliency during emergencies or public safety power shutoffs. We find that it is in the public's interest for PacifiCorp to not only offer its first cycle of grants as soon as possible, but to more generally aim to get as many portable renewable generators and energy storage projects on the ground as soon as possible.

Requiring PacifiCorp to hold back significant funding for potential energy storage projects to be awarded in the second grant cycle could achieve the opposite. For example, there could be little interest in grants for energy storage assessments in the first grant cycle, paired with high demand for portable renewable generators. A hold back requirement could result in fewer portable

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<sup>10</sup> PacifiCorp response to scoping ruling.

renewable generators granted in the first cycle, without resulting in any additional energy storage projects in the second year.

Accordingly, we set a performance target for PacifiCorp to endeavor to grant at least 40% of the program funds authorized by this decision within one year of this decision, and 100% of the program funds within two years of this decision, and we do not impose a restriction on the amounts to be used for the Energy Storage Program as opposed to the Portable Generators Program.

## **5. Administrative costs**

Parties agreed in comments responding to the scoping memo that there should be a cap on the use of unspent California Solar Initiative funds for administrative costs for the proposed programs and that a 10% administrative cost cap would be reasonable. The remaining issue in dispute is what should be included in the calculation of administrative costs.

Public Advocates Office argued that PacifiCorp should include the costs for an independent evaluator within the proposed 10% administrative cost cap. PacifiCorp asserted that only internal administrative costs should be subject to the 10% administrative cost cap.

The purpose of an administrative cost cap is to ensure that only a small portion of program funds will be diverted from providing benefits to customers or the public. If external administrative costs are excluded, the administrative cost cap will not meet its purpose. PacifiCorp did not provide a compelling reason to exclude external administrative costs, such as the proposed independent evaluator, from its proposed 10% administrative cost cap. Nor did PacifiCorp recommend a separate external administrative cost cap.

Accordingly, we find it reasonable to adopt PacifiCorp's proposed 10% administrative cost cap, and to require PacifiCorp to include all internal and external administrative costs towards this cost cap.

Recognizing that 10% of the very limited amount of program funds may not be sufficient to retain an independent evaluator for the Energy Storage Program, we authorize PacifiCorp to either evaluate energy storage grant applications with an independent evaluator or with PacifiCorp's internal staff. The proposed Energy Storage Program is limited to a short duration and a small budget; accordingly, we do not have concerns about PacifiCorp's evaluation of the program with its internal staff.

## **6. Outreach**

Targeted outreach will be essential to ensuring that program funds reach communities quickly and equitably.

PacifiCorp reported to the Commission that, as of January 24, 2020, it has not conducted outreach to key stakeholders specific to the proposed programs. PacifiCorp confirmed that it intends to conduct community outreach following a Commission decision on its application. PacifiCorp described its ongoing coordination with local emergency planners but did not provide plans to conduct outreach to other key stakeholders.<sup>11</sup>

In comments responding to the scoping ruling, Public Advocates Office recommended that PacifiCorp engage in targeted outreach to tribal and local

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<sup>11</sup> PacifiCorp Response to Assigned Commissioner Inquiry at 4.

governments in disadvantaged communities within its service territory. Public Advocates Office further recommended that PacifiCorp be required to identify and engage with nonprofit organizations focused on providing services to communities which may benefit from the proposed grant programs.

We find this approach to be reasonable and direct PacifiCorp to conduct outreach to representatives of low-income and tribal communities within its service territory. Additionally, we direct PacifiCorp to contact County Health and Human Services Agencies and community-based organizations, particularly those that represent and support vulnerable populations such as access and functional needs individuals, to obtain leads and contacts to inform PacifiCorp's outreach strategy.

## **7. Program Adjustments**

Public Advocates Office recommended that we direct PacifiCorp to submit a Tier 1 advice letter to notify the Commission of any modifications to the program between the first and second annual grant cycles. PacifiCorp supported this approach.<sup>12</sup>

We find this recommendation to be reasonable. In light of the small budget and limited duration of this program, this approach strikes the right balance between ensuring transparency and allowing PacifiCorp to be nimble in response to the programs' reception. However, we clarify that PacifiCorp may not modify the administrative cost cap.

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<sup>12</sup> See Public Advocates Office's comments on the scoping ruling dated February 12, 2020 and PacifiCorp's reply comments on the scoping ruling dated February 26, 2020.

## 8. Reporting Requirements

We intend to create reporting requirements that provide transparency while keeping administrative costs low.

PacifiCorp recommended annual reporting on the following aspects of the programs:

- Applications received and selected;
- Funding requested, awarded and remaining;
- General information about outreach efforts; and
- Any material program design adjustments.

Public Advocates Office recommended the following approach in its scoping ruling comments and its PHC statement:

- Require annual reports in the form of a Tier 1 advice letter;
- Reports should include information about targeted outreach to, funding requested by, and grants awarded to tribal and disadvantaged communities; and
- Reports should provide a map or listing of which projects have received grants.

Accordingly, we direct PacifiCorp to report on the two programs as follows:

- Submit to the Commission's Energy Division and serve a Tier 1 advice letter with a detailed budget of internal and external administrative costs for the new programs and accounting of the remaining California Solar Initiative Program funds within 30 days of this decision. This advice letter will include a start date for accepting grant applications for the first cycle of the new programs that is within 30 days of the date of this decision.
- Submit to the Commission's Energy Division and serve (a) an annual report in the form of a Tier 1 advice letter

within 14 months of the effective date of this decision to report on the first year of implementation of the programs, and either (b) an annual report in the form of a Tier 1 advice letter within 26 months of the effective date of this decision if all remaining California Solar Initiative Program funds have been expended, or (c) an annual report and request for approval to continue to conduct an additional grant cycle or return remaining funds to ratepayers in the form of a Tier 2 advice letter within 26 months of the effective date of this decision.

Each annual report must include: (a) a list of applications received and selected, including name of applicant and brief description of the proposed project, (b) funding requested and awarded, (c) map or listing of projects awarded (c) internal administrative expenses, (d) external administrative expenses or expenses related to evaluation of the program, (e) a list of organizations, agencies and community representatives with whom PacifiCorp or its contractors conducted outreach and copies of related correspondence with them, and (f) any material modifications that PacifiCorp intends to make or has made to the programs.

## **9. Conclusion**

We approve A.19-10-003 to repurpose unspent California Solar Initiative funds for two new emergency services resiliency programs, with the following modifications:

- a. The definition of “eligible critical facility” for the Energy Storage Program will match the Commission’s definition in D.19-09-027, except that it will clarify that load serving entities and PacifiCorp affiliates will not be eligible for grants.

- b. The community benefits criteria for the Energy Storage Program will exclude benefits to energy storage or renewable energy industries.
- c. The community benefits criteria for the Energy Storage Program will include a qualitative measure of benefits to tribal, low-income and/or disadvantaged communities
- d. No more than 10% of funds authorized by this decision may be used for internal or external administrative costs. PacifiCorp may choose to engage an independent evaluator for the Energy Storage Program or use internal staff to administer this program. Administrative costs will include the costs of any independent evaluator for selecting grant recipients.
- e. PacifiCorp shall endeavor to grant at least 40% of program funds authorized by this decision within one year of this decision, and 100% of program funds within two years of this decision.
- f. PacifiCorp shall begin to accept grant applications for the new programs within 30 days of this decision.
- g. PacifiCorp shall submit to the Commission's Energy Division and serve advice letters in accordance with Section 8 of this decision.

#### **10. Comments on Proposed Decision**

The ALJ's proposed decision was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments/replies received.

#### **11. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and Stephanie S. Wang is the assigned ALJ in this proceeding.

**Findings of Fact**

1. The two emergency services resiliency programs proposed by PacifiCorp in A.19-10-003 have the potential to provide critical services to customers or the public in PacifiCorp's California service territory during de-energization events or emergencies such as wildfires.
2. In D.11-03-007, the Commission directed that any unspent collections from PacifiCorp's California Solar Initiative Program be rolled over annually until further order of the Commission either directing use of the funds or return of the money to PacifiCorp's ratepayers.
3. PacifiCorp has \$623,230 in unspent California Solar Incentive Program collections available.
4. PacifiCorp and Public Advocates Office are the only parties to this proceeding.
5. The definition of "eligible critical facility" for the proposed Energy Storage Program should match the Commission's definition in D.19-09-027, except that load serving entities and PacifiCorp affiliates will not be eligible for grants.
6. The community benefits criteria for the proposed Energy Storage Program should exclude benefits to energy storage or renewable energy industries.
7. The community benefits criteria for the proposed Energy Storage Program should include a qualitative measure of benefits to tribal, low-income and/or disadvantaged communities.
8. No more than 10% of funds authorized by this decision should be used for administrative costs.

9. The 10% administrative cost cap should include both internal and external administrative costs, including the costs of evaluating the programs.

10. PacifiCorp should submit annual reports with information about the status of the proposed programs.

### **Conclusions of Law**

1. The Commission previously authorized PacifiCorp to use a portion of unspent funds from its California Solar Incentive Program for transportation electrification projects, education and outreach in D.18-09-034.

2. The Commission should approve A.19-10-003 for PacifiCorp to use the remaining unspent funds from its California Solar Incentive Program for the proposed emergency services resiliency programs, with the modifications described in Section 9 of this decision.

3. It is reasonable to set a 10% cap for use of funds authorized by this decision for administrative costs, including all internal and external administrative costs.

4. It is reasonable for PacifiCorp to grant at least 40% of program funds authorized by this decision within one year of this decision, and 100% of program funds within two years of this decision.

5. It is reasonable to require PacifiCorp to submit to the Commission's Energy Division and serve an advice letter regarding implementation of the new programs within 30 days of this decision and to submit and serve annual reports.

6. It is reasonable to require PacifiCorp to start to accept grant applications for the new programs within 30 days of this decision.

**O R D E R**

IT IS ORDERED that:

1. Application 19-10-003 is approved with the modifications specified in Section 9 of this decision.

2. PacifiCorp shall submit and serve a Tier 1 advice letter with a detailed budget of internal and external administrative costs for the new programs and accounting of the remaining California Solar Initiative Program funds within 30 days of this decision. This advice letter will include a start date for accepting grant applications for the first cycle of the new programs that is within 30 days of the date of this decision.

3. PacifiCorp shall submit and serve (a) an annual report in the form of a Tier 1 advice letter within 14 months of the effective date of this decision to report on the first year of implementation of the programs, and either (b) an annual report in the form of a Tier 1 advice letter within 26 months of the effective date of this decision if all remaining California Solar Initiative Program funds have been expended, or (c) an annual report and request for approval to continue to conduct an additional grant cycle or return remaining funds to ratepayers in the form of a Tier 2 advice letter within 26 months of the effective date of this decision. Each annual report must include: (a) applications received and selected, (b) funding requested and awarded, (c) map or listing of projects awarded (c) internal administrative expenses, (d) external administrative expenses, (e) a list of organizations, agencies and community representatives and related correspondence for which PacifiCorp or its contractors conducted

outreach, and (f) any material modifications that PacifiCorp intends to make or has made to the programs.

4. All motions not previously ruled on are hereby denied.
5. Application 19-10-003 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California